

AMENDED IN SENATE AUGUST 20, 2002

AMENDED IN SENATE JUNE 28, 2002

AMENDED IN ASSEMBLY JANUARY 9, 2002

CALIFORNIA LEGISLATURE—2001–02 REGULAR SESSION

ASSEMBLY BILL

No. 1486

Introduced by Assembly Member Dutra

February 23, 2001

An act to amend Sections 12640.02 and 12640.07 of the Insurance Code, relating to insurance, ~~and declaring the urgency thereof, to take effect immediately.~~

LEGISLATIVE COUNSEL'S DIGEST

AB 1486, as amended, Dutra. Mortgage guaranty insurance.

The Mortgage Guaranty Insurance Act provides for the regulation of mortgage guaranty insurance, as defined. Under these provisions, mortgage guaranty insurance may be written only to insure loans secured by first or junior liens on authorized real estate securities in an amount not to exceed 100% of the fair market value of the securities.

This bill would increase the allowable total indebtedness on which this insurance may be written in this circumstance to 103% of the fair market value of the real estate securities.

~~The bill would declare that it is to take effect immediately as an urgency statute.~~

Vote: ~~2/3~~ majority. Appropriation: no. Fiscal committee: no. State-mandated local program: no.

The people of the State of California do enact as follows:

SECTION 1. Section 12640.02 of the Insurance Code is amended to read:

12640.02. The definitions set forth in this article shall govern the construction of the terms used in this chapter but shall not affect any other provisions of this code.

(a) “Mortgage guaranty insurance” means:

(1) Insurance against financial loss by reason of nonpayment of principal, interest, and other sums agreed to be paid under the terms of any note or bond or other evidence of indebtedness secured by a mortgage, deed of trust, or other instrument constituting a first lien or charge on real estate, provided the improvement on the real estate is a residential building or a condominium unit or buildings designed for occupancy by not more than four families.

(2) Insurance against financial loss by reason of nonpayment of principal, interest, and other sums agreed to be paid under the terms of any note or bond or other evidence of indebtedness secured by a mortgage, deed of trust, or other instrument constituting a junior lien or charge on real estate, provided the improvement on the real estate is a residential building or a condominium unit or building designed for occupancy by not more than four families.

(3) Insurance against financial loss by reason of nonpayment of principal, interest and other sums agreed to be paid under the terms of any note or bond or other evidence of indebtedness secured by a mortgage, deed of trust, or other instrument constituting a lien or charge on real estate, provided the improvement on the real estate is a building or buildings designed for occupancy by five or more families or designed to be occupied for industrial or commercial purposes.

(4) Insurance against financial loss by reason of nonpayment of rent and other sums agreed to be paid under the terms of a written lease for the possession, use or occupancy of real estate, provided the improvement on the real estate is a building or buildings designed to be occupied for industrial or commercial purposes.

(b) (1) “Authorized real estate security” for the purposes of this chapter means either (A) real estate, plus the balance of any pledged cash account, pledged borrower retirement account, or

1 collateralized guaranty agreement contracted for by parents, blood
2 relatives, employers, or nonprofit corporations for the benefit of
3 the borrower; or (B) real estate securing a note, bond, or other
4 evidence of indebtedness by a junior mortgage, deed of trust, or
5 other instrument constituting a junior lien or charge on the real
6 estate, which, when combined with all existing mortgage loan
7 amounts, does not exceed a total indebtedness equal to 103 percent
8 of the fair market value of the real estate at the time the junior loan
9 is made, provided that, in determining the foregoing 103 percent
10 limitation, if the loan securing the junior lien is an equity line of
11 credit loan, the full amount of the line of credit to be secured by
12 the junior lien shall be considered the amount of the loan, and
13 further provided, in all cases that both of the following are true:

14 (i) The real estate loan secured in this manner is any type of loan
15 which a bank, savings and loan association, mortgage banker,
16 credit union, mortgage loan broker, or an insurance company,
17 which is supervised and regulated by a department of this state or
18 an agency of the federal government, is authorized to make or
19 arrange, or would be authorized to make or arrange, disregarding
20 any requirement applicable to an institution that the amount of the
21 loan not exceed a certain percentage of the value of the real estate.

22 (ii) The improvement on the real estate is a building or
23 buildings designed for occupancy as specified by paragraphs (1),
24 (2), and (3) of subdivision (a).

25 (C) The lien on the real estate may be subject and subordinate
26 to the following:

27 (i) The lien of any public bond, assessment, or tax, when no
28 installment, call, or payment of or under the bond, assessment, or
29 tax is delinquent.

30 (ii) Outstanding mineral, oil or timber rights, rights-of-way,
31 easements or rights-of-way or support, sewer rights, building
32 restrictions or other restrictions or covenants, conditions or
33 regulations of use, or outstanding leases upon the real property
34 under which rents or profits are reserved to the owner thereof.

35 (2) “Authorized real estate security” also means a stock or
36 membership certificate issued to a tenant-stockholder or
37 resident-member by a completed fee simple cooperative housing
38 corporation, as defined in Section 17265 of the Revenue and
39 Taxation Code and Section 216 of the United States Internal
40 Revenue Code.

(c) “Contingency reserve” means an additional premium reserve established for the protection of policyholders against the effect of adverse economic cycles.

(d) “Policyholders surplus” means the aggregate of capital, surplus and contingency reserve.

SEC. 2. Section 12640.07 of the Insurance Code is amended to read:

12640.07. (a) Mortgage guaranty insurance may be transacted in this state only by a stock or mutual casualty insurer holding a certificate of authority for the transaction of the insurance pursuant to this chapter, and shall be written only to insure either of the following:

(1) Loans secured by first liens on authorized real estate securities not exceeding, at the time the loan is made, 103 percent of the fair market value of the authorized real estate security, as defined in subparagraph (A) of paragraph (1) of subdivision (b) of Section 12640.02.

(2) Loans secured by junior liens, as defined in subparagraph (B) of paragraph (1) of subdivision (b) of Section 12640.02.

(b) Any reciprocal insurer engaging in this type of business shall be bound by all provisions of this chapter, including the requirements as to paid-in capital and paid-in surplus.

~~SEC. 3. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:~~

~~In order to ensure affordable financing options for home ownership in California, it is necessary that this act take effect immediately.~~